

APPENDIX A

# AFFORDABLE HOUSING IMPACT STATEMENT



**Plan Type: Site Plan**  
**Date Range: Not Applicable**  
**Planning Area: 23 - OLNEY**

## Planning Board Report

### Project Description

Name of Project / Plan	TONG SUBDIVISION, LOTS 1-13
Project / Plan Number	820050170
Current Zoning	RE-2
What is Proposed?	SF
Is project being considered as a Green Tape project for affordable housing?	No
TDR's (Proposed / Approved)	10 / 0

### Impact on Housing Supply

	Single Family Detached	Single Family Attached	Multi-Family	Total Units
Maximum number of dwelling units allowed by Zoning	33	0	0	33
Number and type of dwelling units proposed	13	0	0	13
Number and type of dwelling units approved	0	0	0	0
Number and type of dwelling units to be removed or demolished	1	0	0	1
Net increase \ decrease in dwelling units	0	0	0	0

### Impact on Affordable Housing

	Affordable Housing			Total Units
	MPDU	Other	Workforce	
Number and type of affordable housing units proposed	0	0	0	0
Number and type of affordable housing units approved	0	0	0	0
Number and type of affordable housing units to be removed or demolished	0	0	0	0
Increase/Decrease in affordable housing units	0	0	0	0

### Impact on the Demand for Housing

Types of jobs to be created:

Commercial	Manufacturing	Office	Research & Development	Schools
0	0	0	0	0



**THE MARYLAND-NATIONAL CAPITAL PARK AND  
PLANNING COMMISSION**  
Department of Park & Planning, Montgomery County, Maryland  
8787 Georgia Avenue, Silver Spring, Maryland 20910

**MEMORANDUM**

**TO:** Robert Kronenberg, Development Review  
Cathy Conlon, Development Review

**FROM:** Mark Pfefferle, Planning Coordinator, Environmental Planning

**DATE:** February 9, 2005

**SUBJECT:** Preliminary Plan 1-05024  
Site Plan 8-05017  
Tong Property

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The Environmental Planning staff has reviewed the site plan referenced above. Staff recommends approval of the preliminary and site plans with the following conditions:

1. Compliance with the conditions of the final forest conservation plan. *MP*

**Background**

The 9.31-acre property is located in the Hawlings River watershed. The site is east of the intersection of Prince William Drive and Spartan Road, along Spartan Road in Olney. The property includes open fields, forests, stream buffers and two-single family homes and outbuildings. One single family home is situated on Spartan Road and the second is back from the street and is not visible from Spartan Road. The site includes 7.37 acres of forest. There are 26 trees with a diameter at breast height (dbh) greater than 30 inches and 96 trees greater than 24 inches dbh and less than 30 inches dbh. There are no known historical buildings or archaeological sites on this site. The property is zone RE2/TDR 2 and RE2/TDR5.

**Forest Conservation**

The 9.37-acre property includes 7.37 acres of existing forest. The existing forest is located away from Spartan Road and includes stream buffers. Since this property is being developed utilizing an optional method of development the applicant is required to retain 20 percent of the existing forest onsite. The applicant will meet the forest conservation requirements by preserving 4.08 acres of existing forest. Based on the amount of forest that currently exists onsite and the amount of forest cleared, there are no planting requirements for this project.

## **Environmental Guidelines**

The Natural Resource Inventory/Forest Stand Delineation (4-04125) was approved on January 8, 2004. This plan identifies the existing conditions on the property and identifies the locations of streams and size of stream buffers for the property. The house located away from the Spartan Road is entirely within the stream buffer. Under the plan submitted, this existing structure will remain. Typically, redevelopment of properties results in the removal of all impervious surfaces and structures within stream buffers and a category I forest conservation easement is placed on the entire buffer area. When structures that are located with the stream buffer are intended to remain, applicants propose modifications to the environmental buffers. Environmental Planning reviews encroachments into stream buffers on a case-by-case basis. In this application the current owner of the property intends to remain in the existing house. Environmental Planning believes that a category II forest conservation easement, over lot 13, will be sufficient to protect the existing forest and prohibit removal of trees. M-NCPPC staff must approve the removal of any tree greater than 6 inches diameter in a category II easement. There are 8 trees 24 inches and greater on this approximately 27,000 square feet and numerous others less than 24 inches diameter. Environmental Planning recommends the Planning Board approve the permanent encroachment into the stream buffer for this existing structure.

## **Transferable Development Rights (TDRs)**

Under the base zone the applicant could construct a maximum of 3 dwelling units on the subject property. With the TDRs the maximum density increases to 32 dwelling units. The applicant is proposing to acquire 10 TDRs and develop the site with 13 single-family units. The minimum number of TDRs required ( $\frac{2}{3}$  of the maximum) is 20. Since the applicant is proposing to utilize less than  $\frac{2}{3}$  of the TDRs the applicant must request a waiver under Section 59-C-1.393(b) of the zoning ordinance. This section permits the Planning Board to waive the  $\frac{2}{3}$  TDR requirement if desirable to have a lower density for environmental and compatibility reasons.

Environmental Planning supports the waiver request. Environmental Planning would request the same amount of environmental protection whether the applicant uses the maximum amount of TDRs or the amount proposed. The stream valley buffers would remain undisturbed and the applicant would continue to be required to meet the forest conservation threshold onsite. The applicant could achieve the  $\frac{2}{3}$  minimum number of TDRs only through a unit type change, which may not be compatible, or by encroaching into the environmental buffers with compatible units. Environmental Planning would not support new encroachment into the stream buffer for compatible units.



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
County Executive

Robert C. Hubbard  
Director

November 1, 2004

Ms. Joanne M. Cheek, P.E.  
Dewberry and Davis  
203 Perry Parkway, Suite 1  
Gaithersburg, Maryland 20878

Re: Stormwater Management **CONCEPT** Request  
for Tong Property  
Preliminary Plan #: 1-05024  
SM File #: 210998  
Tract Size/Zone: 8.9 Ac./ RE-2 / TDR 2 and 4  
Total Concept Area: 8.9 Ac.  
Lots/Block: 13 lots proposed  
Parcel(s): P563, P567 & N621  
Watershed: Hawlings River

Dear Ms Cheek:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control and recharge via 2 surface sandfilters. Hydrodynamic water quality structures are also being provided because a waiver of open section roadways was requested. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following **items** will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. The sandfilters and water quality structures must be located on Stormwater parcels and labeled as such on the record plat.
6. Provide standard driveway aprons at the curb for access to the Stormwater management facilities.

This list may not be all-inclusive and may change based on available information at the time.



This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Mike Geier at 240-777-6342.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm CN 210998.TongProperty.mjg.doc

cc: R. Weaver  
S. Federline  
SM File # 210998

QN -n/r; Acres:  
QL - onsite; Acres: 4  
Recharge is provided



200 Perry Parkway  
Suite 1  
Guthrieburg, Maryland 20877-2100

301 948 0300  
301 258 7007 fax  
www.dewberry.com

February 3, 2005

Mr. Mike Geier  
Water Resources Section  
Division of Land Development Services  
Department of Permitting Services  
255 Rockville Pike  
Rockville, MD 20850

Re: Tong Property  
SWM File #210998  
Preliminary Plan # 1-05024

Dear Mr. Geier:

As we discussed the lot layout for the Tong Property has been revised based on comments from Robert Kronenberg at M-NCP&PC. This change consisted of adding an additional lot to the pipestream area and deleting a lot along Street A. This change revised the amount of impervious area draining toward the proposed surface sand filters. Revised computations indicate that an additional 1,000 sf of impervious area will drain toward SWM 1. I have revised the computations to compute the new requirements for SWM 1 - surface sand filter. The revised computations show that the surface sand filter as shown on the approved SWM concept will still work.

Therefore, we feel that the SWM concept as approved on November 4, 2004 is still applicable. I am including the approved and the revised Water Quality computations along with the approved surge storage table to show the surface sand filter is adequately sized.

By signing below you agree the existing SWM concept is still acceptable. Please contact me if you have any questions.

Sincerely,

Dewberry

*Joanne M. Cheok*  
Joanne M. Cheok, P.E.  
Associate

*Michael Lewis*

*2/3/2005*

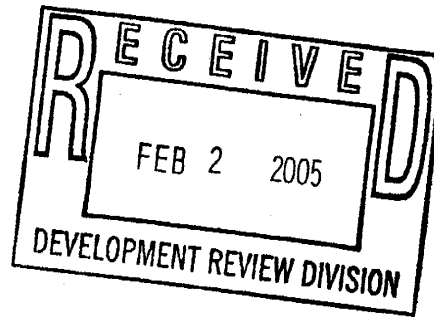
MCDPS approval

Name

Date

APPENDIX C

January 24, 2005



Robert Kronenberg  
MNPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910

Dear Mr. Kronenberg:

We are writing this letter to address the compatibility of the proposed development of the Tong property and in particular how the proposed lots compare with the existing adjacent lots located on Paradise Cove Terrace. We realize that you must make a determination of compatibility when preparing your staff report to present to the Planning Commission and have prepared and enclosed the following chart.

As you can see, the square footage of the twelve houses nearest the proposed development average 1,945 square feet and the average lot is 9,552 square feet. Lot coverage for the twelve is 21%. In comparison, the twelve proposed lots have a house footprint that averages 2,541 square feet on a lot that averages 10,491 square feet. Lot coverage is approximately 26%. While not a great difference, you must also factor in that the houses in James Creek are developed on a traditional street having a 60' right of way while the proposed Tong lots are located on a much more narrow tertiary street or on pipe-stem lots. Neither of these features were employed in the James Creek community. As a result, the setback from the curb to the house in the James Creek community is significantly greater. If the right of way was factored into the average lot coverage for the James Creek units would drop to 18%.

A second comparison was made for the lots that would actually abut one another. Here you can see that the average James Creek house covers approximately 25% while the average proposed Tong lot would be 28% covered. Again, not a significant average difference, however three of the proposed lots exceed 30% coverage. Of those, two exceed 35%. The James Creek lots have a more consistent lot coverage particularly when you realize that lot 180 has most of its total square footage on the ground floor. In this second comparison it is significant to note that the six James Creek lots would border eight proposed lots along a common rear border that is virtually identical.

As the residents most effected by the proposed development we do not feel that the proposed development is at all compatible with James Creek. Eight lots with greater lot coverage utilizing a tertiary street cannot be compared to six lots located on a 60' secondary street. We would like to see two of the proposed units eliminated or moved to another portion of the development.

Thank you for your consideration.

**James Creek / Tong Property  
Lot Coverage Comparison  
Abutting Lots**

<b>James Creek</b>			
<b>Lot / Block</b>	<b>Lot Sqaure Feet</b>	<b>Sqaure Feet of Building Footprint</b>	<b>Percentage Coverage</b>
175	10,021	2,096	21%
176	8,367	2,138	26%
177	10,050	2,640	26%
178	8,150	1,897	23%
179	8,088	1,897	23%
180	8,456	2,441	29%
<b>Totals</b>	<b>53,132</b>	<b>13,109</b>	
<b>Average</b>	<b>4,428</b>	<b>1,092</b>	<b>25%</b>

<b>Tong Property</b>			
<b>Lot / Block</b>	<b>Lot Sqaure Feet</b>	<b>Sqaure Feet of Building Footprint</b>	<b>% Coverage</b>
5	12,680	2,750	22%
6	10,394	2,750	26%
7	10,219	2,750	27%
8	7,230	2,250	31%
9	7,608	2,750	36%
10	8,750	2,250	26%
11	7,774	2,750	35%
12	11,385	2,750	24%
<b>Totals</b>	<b>76,040</b>	<b>21,000</b>	
<b>Average</b>	<b>6,337</b>	<b>1,750</b>	<b>28%</b>



**James Creek / Tong Property  
Lot Coverage Comparison (All lots)  
1/22/05**

<b>James Creek</b>			
<b>Lot / Block</b>	<b>Lot Sqaure Feet</b>	<b>Sqaure Feet of Building Footprint</b>	<b>% Coverage</b>
175	10,021	2,096	21%
176	8,367	2,138	26%
177	10,050	2,640	26%
178	8,150	1,897	23%
179	8,088	1,897	23%
180	8,456	2,441	29%
187	8,600	1,606	19%
188	9,800	1,320	13%
189	10,070	1,952	19%
190	9,849	1,491	15%
16	14,501	1,935	13%
17	8,691	1,935	22%
<b>Totals</b>	<b>114,643</b>	<b>23,348</b>	
<b>Average</b>	<b>9,554</b>	<b>1,946</b>	<b>21%</b>

<b>Tong Property</b>			
<b>Lot / Block</b>	<b>Lot Sqaure Feet</b>	<b>Sqaure Feet of Building Footprint</b>	<b>% Coverage</b>
5	12,680	2,750	22%
6	10,394	2,750	26%
7	10,219	2,750	27%
8	7,230	2,250	31%
9	7,608	2,750	36%
10	8,750	2,250	26%
11	7,774	2,750	35%
12	11,385	2,750	24%
4	19,028	2,750	14%
3	9,691	2,250	23%
2	8,743	2,250	26%
1	12,387	2,250	18%
<b>Totals</b>	<b>125,889</b>	<b>30,500</b>	
<b>Average</b>	<b>10,491</b>	<b>2,542</b>	<b>26%</b>

Pat and Chris Milano

Mr. and Mrs. Milano

18401 Paradise Cove Terrace  
Olney, MD 20832

Dr. Charles

MS Jeannie Marcus

Ms. Marcus

18403 Paradise Cove Terrace  
Olney, MD 20832

Frank and Monica Sparber

Mr. and Mrs. Sparber

18405 Paradise Cove Terrace  
Olney, MD 20832

James & Cynthia Lessig

Mr. and Mrs. Lessig

18407 Paradise Cove Terrace  
Olney, MD 20832

Mike & Kim Khan

Mr. and Mrs. Khan

18409 Paradise Cove Terrace  
Olney, MD 20832

Jean & Laregol

Mrs. Paregol

18411 Paradise Cove Terrace  
Olney, MD 20832

Mark & Michelle Levy

Mr. and Mrs. Levy

18413 Paradise Cove Terrace  
Olney, MD 20832

Mr & Mrs Nasr

Mr. and Mrs. Nasr

18415 Paradise Cove Terrace  
Olney, MD 20832

Cornelia & Mary de Kramer

Mr. and Mrs. Dekramer

18417 Paradise Cove Terrace  
Olney, MD 20832

Mr. and Mrs. Chen

18416 Paradise Cove Terrace  
Olney, MD 20832

Tien Mien Hsun Chen Chen

18412 Paradise Cove Terrace  
Olney, MD 20832 - out of town

Mr. and Mrs. Koziowski

Mr. and Mrs. Koziowski

18410 Paradise Cove Terrace  
Olney, MD 20832

Robert & Jodi Kelly

18408 Paradise Cove Terrace

Mr. and Mrs. Buckley

Olney, MD 20832

Sara Moran  
Sara -Ann Moran

18406 Paradise Cove Terrace  
Olney, MD 20832

David & Patricia Westle  
Mr. and Mrs. Westlein

18404 Paradise Cove Terrace  
Olney, MD 20832

Hui-Nan & Patty Chou  
Mr. and Mrs. Chou

18400 Paradise Cove Terrace  
Olney, MD 20832

APPENDIX D

**LINOWES**  
**AND BLOCHER LLP**  
ATTORNEYS AT LAW

November 22, 2004

Anne C. Martin  
301.961.5127  
amartin@linowes-law.com

**Hand Delivered (with Site Plan Application)**

Ms. Catherine Conlon  
Development Review Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Preliminary Plan No. 1-05024 (the "Preliminary Plan")  
Tong Property, Olney

Dear Ms. Conlon:

On behalf of Magruder Reed Communities (the "Applicant"), we are submitting the additional information pertaining to the waivers for the development that was requested by M-NCPPC Staff ("Staff") at the September 20, 2004 Development Review Committee ("DRC") meeting regarding this Preliminary Plan. The waivers that are necessary for the development of the property include: the proposed closed section road, the tertiary road width, the cul-de-sac length, the sidewalks and the inability to provide all of the units required in the development under the Transferable Development Rights ("TDR") standards. As you may recall, the development on this property has already been the subject of two other DRC meetings (February 9, 2004 and June 14, 2004) and the Staff has consistently supported these waivers to achieve a compatible development on this significantly constrained site. For your convenience, we have provided the requested additional information below for each waiver request as separate items, so we apologize for any repetitiveness in addressing the required criteria or standards for each waiver.

**Closed Section:**

Pursuant to Section 49-35(1)(2) of the Montgomery County Code (the "Code"), the Director of Permitting Services ("DPS") may approve the installation of curbs and gutters in a portion of a road located in a Class IV watershed (the Patuxent), after giving the Department of Environmental Protection and the Planning Board a reasonable opportunity to comment, if: 1) the installation of curbs and gutters will not significantly degrade the water quality in the area, 2) the curbs and gutters are necessary for vehicular or pedestrian safety or the proper grading or maintenance of the road, and 3) a preliminary plan of subdivision or site plan approved by the

Ms. Catherine Conlon  
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Planning Board for the land abutting the portion of the road where curbs and gutters may be installed expressly permits the curbs and gutters to be installed.

The proposed subdivision on the Tong Property will be before the Planning Board during the review of the Preliminary Plan (and the Site Plan application), and the Applicant requests specific permission for curb and gutter installation as part of the project. As demonstrated on the stormwater management concept plans for the subdivision, the installation of curbs and gutters will not significantly degrade the water quality in the area, particularly with the proposed additional measures in the level of treatment beyond the minimum requirements. The 13 lots in the subdivision are clustered and have average front lot line widths between 60-90 feet, which provide closer proximity of the driveway aprons to connect the curb and gutter and sidewalk improvements and thus assist with vehicular and pedestrian safety. Further, the provision of curb and gutter is consistent with the adjoining residential subdivisions and streets in the extended neighborhood that have similar lot sizes and character.

**Tertiary Road- Width:**

Pursuant to Sections 49-34(f) and 50-26(h) of the Code, the Applicant requests that the Planning Board approve a tertiary street with a 27'-4" foot right-of-way for the proposed development during the Preliminary Plan and Site Plan review process. The Planning Board is authorized to approve a reduced width right-of-way if it can be demonstrated that this reduced width is environmentally better and improves compatibility with adjoining properties or allows better use of the parcel under consideration. As explained in detail below, the environmental constraints of this site, the configuration of the proposed lots and the proximity of the adjoining residential lots create conditions that make a reduced width right-of-way a more practical, feasible, compatible and environmentally appropriate road condition.

As demonstrated on the Preliminary Plan, the proposed development is for 13 single-family lots on 9.13 acres, which is less than half of the proposed density permitted on the subject property. The density is limited because of the protected stream valley buffer and forested areas, which comprise almost 60 percent of the entire property. These protected areas and slopes on the property restrict the buildable area and area for storm water management facilities on the site. Therefore, except for the 4 lots located at the entrance to the subdivision on Spartan Road, the proposed lots are located only on one side of the proposed street, thus eliminating the need for a wide street for numerous and varied turning movements (and for a sidewalk on both sides of the entirety of the street). The minimal number of lots and turning movements necessary limit the amount of right-of-way and impervious surface practically necessary for vehicles to

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comfortably and safely access the lots. The reduced width simply allows better use of the property.

Further, the proposed reduced road width allows the lots to be longer in depth to provide lot sizes and setbacks that are consistent and compatible with the lots in the adjacent James Creek subdivision and Christie Estates subdivision. The setbacks additionally provide ample room for landscape treatment, tree protection opportunities and screening areas for the adjacent existing subdivisions. Lastly, the proposed reduced road width is necessary to protect the environmentally sensitive areas immediately adjacent to the north of the street right-of-way and to provide ample area for adequate stormwater management areas to protect these environmental areas.

**Tertiary Road- Sidewalks:**

Pursuant to Section 50-26(h)(3) of the Code, the Planning Board can waive the requirement for a sidewalk of both sides of a street based upon a finding that pedestrians will be able to safely use the roadway. As noted above, the proposed density on the subject property is limited because of the protected stream valley buffer and forested areas that restrict the buildable area and area for storm water management facilities on the site. Therefore, except for the 4 lots located at the entrance to the subdivision on Spartan Road, the proposed lots are located only on one side of the proposed street, thus eliminating the need for a sidewalk on both sides of the entirety of the street for pedestrians to be able to safely use the roadway. The minimal number of lots in the subdivision and the cul-de-sac configuration also reduce the amount of potential vehicular trips and conflicts with pedestrian activity within the development.

Further, similar to the reduced width of the street, the elimination of a unnecessary sidewalk on the side of street fronting only the stream valley buffer area allows the lots on the opposite side of the street to be longer in depth to provide lot sizes and setbacks that are consistent and compatible with the lots in the adjacent James Creek subdivision and Christie Estates subdivision. The setbacks additionally provide ample room for landscape treatment, tree protection opportunities and screening areas for the adjacent existing subdivisions.

**Cul- de-sac**

Pursuant to Section 50-26(d) of the Code, the Planning Board may approve the use of a cul-de-sac longer than five hundred (500) feet when an improved street layout will result because of the unusual shape, size or topography of subdivision and a greater length is justified. As described herein, the subject property is significantly constrained by the steep slopes and locations of the stream valley buffer areas. These constraints, along with the unique shape of

Ms. Catherine Conlon

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the property and limited street frontage on Spartan Road, restrict the buildable area on the site and eliminate the opportunity for through streets on the property. Therefore, the cul-de-sac for Street "A" depicted on the Preliminary Plan provides an improved street layout because it is the only option to provide a safe area for vehicles to turn around on the site within the roadway.

The Street "A" length of 571.67 feet, 71.67 feet longer than the 500 foot standard, is justified because of the limited 200 feet of frontage on Spartan Road and the ability to provide only one road connection based on intersection separation standards. Further, the length of the Street "A" and cul-de-sac is necessary because of the limited buildable area on the site created by the environmental constraints and the ability to only develop on one side of the proposed street.

### **Transferable Development Rights**

The development approval procedures in Section 59-C-1.393 of the Code state that a preliminary plan for a TDR development must include at least two-thirds of the number of development rights permitted to be transferred to the property under the applicable master plan. However, upon a finding by the Planning Board that for environmental or compatibility reasons it would be more desirable to permit a lower density, the two-thirds requirement may be waived. As noted on the Preliminary Plan, the maximum TDR's available for the development on this property is 30 dwelling units (which is the 33 dwelling units maximum TDR density less the 3 dwelling units permitted pursuant to the existing and base density); therefore the two-thirds standard would require a minimum of 20 TDR dwelling units in the development. The Applicant is proposing to only utilize 10 TDRs for the 13-unit development (excluding the base density of 3 units permitted).

The Applicant originally did propose additional density to satisfy this TDR minimum requirement within the limited buildable area on the property with a plan that included 3 single-family units and 27 townhouse units, including the 20 percent affordable units required pursuant to the then applicable Annual Growth Policy ("AGP"). However, at the February 9, 2004 DRC meeting when this plan was reviewed, Staff proposed that the density be reduced to provide more consistency with the adjoining properties and that the townhouse clusters be broken down further to achieve compatibility. Additionally, the AGP that went into effect on July 1, 2004, permitted development to proceed in this Policy Area without utilizing the affordable housing review procedures. Therefore, the Preliminary Plan was revised to eliminate the townhouse units to provide lot and unit types consistent with the adjoining properties since the townhouse units were no longer necessary for the development to be feasible. The Staff supported the provision of the proposed 11 new single-family homes (in addition to the one existing house to remain and one to be replaced and relocated) with similar lot sizes and setbacks as those in the adjoining James Creek and Christie Estates subdivisions,

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as an alternative to the previous townhouse proposal and stated support for the consequential waiver necessary from the two-thirds TDR standard. The Applicant has met with both of the adjacent communities and they prefer the proposed development without the density and varied unit types of the previous plan.

Based on the limited buildable area on this site created by the significant environmental constraints and the compatibility of the proposed lots and unit types in lieu of a development with more density and attached townhomes, the waiver of the requirement to use two-thirds of the TDRs will permit a more desirable development for the property.

For all of the above reasons, we submit that the proposed Preliminary Plan will provide an environmentally superior and more compatible development that makes better use of the property with the approval of the proposed waivers regarding the closed section, the road width, the cul-de-sac length, the sidewalks on one side of the street and reduced density. Therefore, the proposed development and property conditions satisfy the conditions of Sections 49-34(f), 49-35(l)(2), 50-26(d), 50-26(h) and 59-C-1.393 of the Code for the Planning Board to approve these waivers during the Preliminary Plan and Site Plan review processes.

Thank you for your continued assistance and consideration of this matter. Please do not hesitate to call us if you have any questions.

Sincerely,

**LINOWES AND BLOCHER LLP**

  
Anne C. Martin

cc: Mr. Michael Ma  
Mr. Robert Kronenberg  
Mr. Scott C. Reed  
Mr. James Crawford